

**FILED**

**MAY 08 2013**

Clerk, U.S. District Court  
District Of Montana  
Missoula

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
MISSOULA DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

RUSSELL LEROY MILLER,

Defendant.

CR 13-01-M-DWM

ORDER

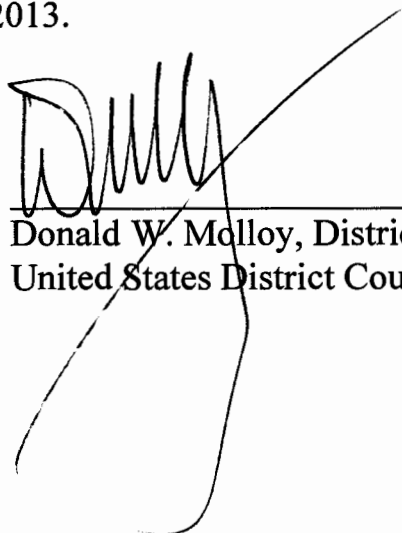
United States Magistrate Judge Jeremiah C. Lynch entered Findings and Recommendation in this matter on April 18, 2013. Neither party objected and therefore they are not entitled to de novo review of the record. 28 U.S.C. § 636(b)(1); United States v. Reyna-Tapia, 328 F.3d 1114, 1121 (9th Cir. 2003). This Court will review the Findings and Recommendation for clear error. McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc., 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been committed.” United States v. Syrax, 235 F.3d 422, 427 (9th Cir. 2000).

Judge Lynch recommended this Court accept Russell Leroy Miller's guilty plea after Miller appeared before him pursuant to Federal Rule of Criminal Procedure 11, and entered his plea of guilty to one count of Possession of Child Pornography in violation of 18 U.S.C. § 2252A(a)(5)(B), as set forth in the Superseding Information.

I find no clear error in Judge Lynch's Findings and Recommendation (doc. 19), and I adopt them in full, including the recommendation to defer acceptance of the Plea Agreement until sentencing when the Court will have reviewed the Plea Agreement and Presentence Investigation Report.

Accordingly, IT IS HEREBY ORDERED that Russell Leroy Miller's motion to change plea (doc. 9) is GRANTED.

DATED this 9<sup>th</sup> day of May, 2013.



Donald W. Molloy, District Judge  
United States District Court